

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TRACY E. COUWRTNEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-20-1164-D
	)	
DR. MILES,	)	
	)	
Defendant.	)	

**ORDER**

This matter comes before the Court for review of the Report and Recommendation [Doc. No. 9] issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Purcell finds that Plaintiff has failed to pay the initial partial filing fee of \$35.90 assessed on November 20, 2020, failed to respond to the Order of December 17, 2020, directing him to show cause for nonpayment, and failed to prosecute this civil rights case. Judge Purcell therefore recommends that Plaintiff's case be dismissed without prejudice to refiling.

The record reflects no timely objection to the Report nor request for additional time to object.<sup>1</sup> Plaintiff was expressly advised of the right to object and the implied waiver rule. *See* R&R at 2. Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659

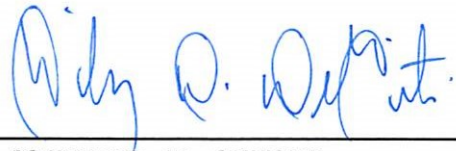
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<sup>1</sup> The Clerk received two letters from Plaintiff during February 2021 that were filed in the case record. One mentions payment of the filing fee [Doc. No. 11], but even liberally construed, it neither explains Plaintiff's nonpayment of \$35.90 nor requests additional time to make the required payment. Plaintiff does dispute any finding or recommendation made by Judge Purcell.

(10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons stated by Judge Purcell, the Court finds that the case should be dismissed without prejudice to refiling.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is ADOPTED. This action is DISMISSED without prejudice, and a separate judgment shall be entered.

IT IS SO ORDERED this 26<sup>th</sup> day of February, 2021.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge